

Errera
10/634,438

In the Drawings:

Please accept replacement drawing sheets for Figures 4, 5, 6 and 8.

REMARKS

The undersigned wishes to acknowledge the courteous treatment received by Mr. Belkin during an interview held with the Examiner on Oct. 19, 2006.

Claims 1-24 were provisionally rejected on the ground of nonstatutory obviousness-type double patenting. A terminal disclaimer is being filed herein.

The drawings were objected to as failing to show features recited in claims 21, 7, 23 and 8. The offending claims have been either amended or canceled to overcome this objection. Additionally, drawing Figures 5 and 6 have been amended in replacement drawing sheets to add reference numeral "12a" for the foot member described in the specification in the paragraph extending from lines 13 through 16. Also, drawing Figure 8 has been amended in a replacement drawing sheet to add reference numeral "35" for the optional cutting wheel cutting the food 26 in a straight or pattern cut 36. The specification has also been amended to add reference numerals "12a" for the foot members and "35" for the optional cutting wheel.

The specification has been amended at page 17, line 12 to correct the reference numeral from "20" to "18" for the roller wheel.

Claims 5, 8, 16 and 20 were rejected as being indefinite. These claims have been either amended or canceled to overcome this ground of rejection.

Claims 1-4, 6, 9-15 and 17-21 were rejected as being anticipated by Swapp.

Claims 7, 16 and 23 were rejected as being unpatentable over Swapp in view of Kuzyk.

The Examiner indicated that claims 5 and 8 would be allowable if rewritten to overcome the rejections under Sec. 112 and to include all of the limitations of the base claim and any intervening claims. To this end, claim 5 has been replaced by independent claim 25 with changes to avoid the Sec. 112 rejection and incorporating all of the limitations of original claim 1 and 5. Claim 8 has been replaced by a new claim 26 to include all of the limitations of claim 1 and claim 16 (to provide support for the "cutter" recited in claim 8).

Swapp discloses a tool “to print several commonly used layout mark combinations in a series when the tool is rolled along a surface” (see col. 1, lines 5-8). An ink pad 30 in contact with the roller provides the ink for the printed marks. The present invention has to do with the embossing of a food product. According to The American Heritage Dictionary, embossing is to “carve in relief” whereas in Swapp ink markings are placed on a surface (other than food) related to the construction industry.

Kusyk discloses a rolling pin with cutters spaced along its width for cutting the dough as it is rolled. It is not understood how the teachings of this patent can be combined with the teachings of Swapp which relates to a printing device.

In order to distinguish claim 1 over Swapp, the claim has been amended to include a food product in the combination. Since the subject matter of Swapp is totally unrelated to that of the present invention, and, in addition, an embossing wheel is very different from a wheel which merely prints with ink on a surface (according to the undersigned, the Examiner expressing some reservation on this point), the claim as amended clearly now distinguishes over this reference. This was discussed at length during the interview. The Examiner agreed that weight should be given to the recitation of the “food product” as part of the combination.

Claim 7 has been amended to recite that the cutting means is on the surface of the embossing wheel, which is consistent with “carving in relief”.

Claims 16 and 23 have been amended to recite that the cutter is retractable (see Fig. 11). This is not possible in Kusyk.

Claims 5-6, 8, 14 and 18 have been canceled.

The remaining depending claims have been amended where appropriate to improve the language throughout.

A conscientious effort has been made to place this application in condition for immediate allowance. The Examiner is requested to call the undersigned if further changes are required to obtain allowance of the application.

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A favorable action is solicited.

Respectfully submitted,

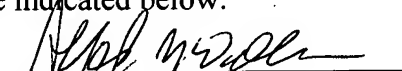


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CERTIFICATE OF MAILING

I certify that the aforementioned amendment was sent to Commissioner of
Patents, Mail Stop Petitions, P.O. Box 1450, Alexandria, VA 22313-1450 by Express
Mail Number EV 564637346 US on the date indicated below:
November 25, 2006



Alfred M. Walker